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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,322	08/29/2003	Gregory J. Thill	29020/003D	1632

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/652,322

Applicant(s)

THILL ET AL.

Examiner

Yvonne M. Horton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 12-17, 19-22, 32 AND 33 is/are rejected.
- 7) ☒ Claim(s) 7-11, 18 and 23-31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ALL CURRENT.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

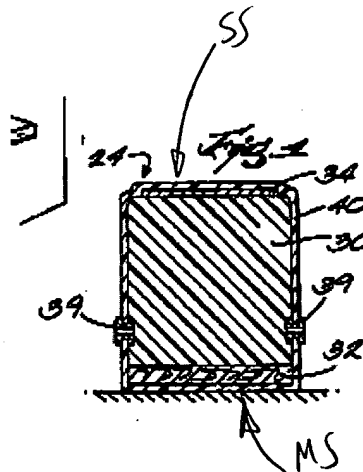
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6 and 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,016,637 to STYBA. Regarding claims 1, 17 and 20, STYBA discloses the use of dock pad including a foam core (30), a cover (40) disposed thereon, and a heat shield (34) adjacent the cover. STYBA discloses the basic claimed dock pad except for the cover and the heat shield explicitly being "pliable". Although STYBA does not explicitly detail that his cover is "pliable", he does; however, disclose that his cover is flexible and that his heat shield is nylon or polyester. Pliable is defined as having the ability to bend; supple enough to bend freely or repeatedly without breaking; plastic; or adjustable to varying conditions. Thus, the cover, at least, being

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flexible, is obviously also "pliable". With regards to the heat shield and it being formed from either nylon or polyester, it is old and very well known in the art that both nylon and polyester materials are available in flexible or "plastic"/bendable forms, thereby also obviously being "pliable". Regarding claim 2, the heat shield (34) is interposed between the cover (40) and the core (30). In reference to claims 3-6, 17, 18 and 19, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known material suitable for the use intended as an obvious matter of design choice. For instance, if the environment warrants exposure to extremely high temperatures, a material having a higher thermal conductivity would be required, and vice-versa. In further reference to claim 19, the same goes for the material's ability to compress and decompress. If the use thereof involves an extraneous need for being compressed, then a suitable material for that purpose would be warranted. Regarding claim 12 and further regarding claim 20, the dock pad further includes a backer (32) that is made from wood which obviously is more rigid than a foam core. In reference to claim 13, the dock pad also includes a sealing surface (SS) and a mounting surface (MS); wherein the heat shield (34) is closer to the sealing surface (SS), see below.

Regarding claims 14 and 15, the



dock pad has an elongate horizontal length (20) and two vertically oriented lengths (18,18') thereby forming an inverted U-shape. In reference to claim 16, STYBA does not disclose the use of an aluminum heat shield; however, it too would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known material suitable for the use intended as an obvious matter of design choice.

Claims 21,22,32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,230,675 to FROMMELT et al. In reference to claims 21 and 33, FROMMELT et al. discloses the use of a dock pad including a foam core (10), a foam pad (9), and a first cover (11-13) thereby overlaying the foam pad (9) and core (10). FROMMELT et al. discloses the basic claimed dock pad except for the cover and the heat shield explicitly being "pliable". Although STYBA does not explicitly detail that his cover is "pliable" and except for detailing if his material is "fire-preventive" /"fire-retardant"/"fire-resistant", he does; however, disclose that his cover is flexible and that his heat shield is nylon or polyester. Pliable is defined as having the ability to bend; supple enough to bend freely or repeatedly without breaking; plastic; or adjustable to

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varying conditions. Thus, the cover, at least, being flexible, is obviously also "pliable". With regards to the heat shield and it being formed from either nylon or polyester, it is old and very well known in the art that both nylon and polyester materials are available in flexible or "plastic"/bendable forms, thereby also obviously being "pliable". Further regarding claim 21,22, and 33, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known material on the basis of its suitability for the use intended. For instance, if the dock pad were being used in areas known for exposure to elements causing fire, then perhaps a "fire-preventive"/"fire-retardant"/"fire-resistant" material would be employed. In reference to claim 32, FROMMELT et al. discloses the use of a second overlaying cover (14).

Allowable Subject Matter

Claims 7-11,18 and 23-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne M. Horton
Examiner
Art Unit 3635